

OLC 81-0221/2
25 February 1981

25X1 MEMORANDUM FOR: [REDACTED]
Office of Logistics

25X1 [REDACTED]
Office of Communications

25X1 FROM: [REDACTED]
Chief, Legislation Division, OLC

SUBJECT: H.R. 933, the "Federal Privacy of Telephone
Records Act"

1. Subject Bill was recently introduced by Representative Ted Weiss (D., NY). The Office of Security has advised us that you may have an interest in this Bill; therefore, it is being sent to you for your information, review, and comment.

2. As Representative Weiss stated in his introductory statement (also attached), the purpose of this legislation is to protect individual telephone toll records by limiting access to, and use of, these records by Government agencies. To do this, the Bill would amend both the Privacy Act of 1974 and the Communications Act of 1934. In reviewing this Bill, please pay particular attention to:

(a) Section 3, proposed new subsection (r)(1) to the Privacy Act, which requires the designation of one person to be the "telephone record custodian." This individual is to have the responsibility for, and possession of, all telephone record information possessed by an agency. The key question is whether or not we collect, maintain, or use telephone record information, as defined in section 4. If so, would the requirement of a "custodian" pose any problems?

(b) Section 3, proposed subsection (r)(2)(c), which deals with access to telephone record information for the conduct of foreign intelligence or counterintelligence upon the written direction of an agency head; and,

(c) Section 4, proposed subsection 225(b)(1)(A) which allows disclosure of telephone record information by a service provider to a Government authority under FISA, and subsection 225(m), which provides for a complete good faith defense based upon FISA.

3. The remainder of the Bill seems to focus solely on concerns outside of the intelligence area, those being law enforcement and Secret Service.

4. Representative Jack Brooks, Chairman of the House Governmental Operations Committee has requested our views on this Bill. Accordingly, I would appreciate receiving any comments you may have by COB Friday, 6 March if possible. Please address your remarks to Assistant Legislative Counsel.

25X1

25X1



Attachments

Distribution:

1 - OLC Subject (File: Telephone Records Privacy)
1 - OLC Chrono
OLC:KD:es (25 February 1981)